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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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Federal Communications Commission
Office of Secretary

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In the Matter of)
)
Implementation of Section 304 of the)
Telecommunications Act of 1996)
)
Commercial Availability of)
Navigation Devices)

CS Docket No. 97-80

REPLY COMMENTS OF AMERITECH NEW MEDIA, INC.

Ameritech New Media, Inc. ("Ameritech") respectfully offers the following brief reply to the Initial Comments on the Notice of Proposed Rulemaking released in this docket on February 20, 1997 ("NPRM"). The NPRM contains proposals intended to implement Section 629 of the Communications Act,¹ and designed to assure the commercial availability of equipment used to access multichannel video programming from vendors not affiliated with any multichannel video programming distributor ("MVPD").

¹ 47 U.S.C. Section 549; Pub. L. 104-104, 110 Stat. 56 (1996)(the "1996 Act").

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Ameritech made four basic points in its Initial Comments. First, Ameritech argued that the rules adopted in this docket should apply to all MVPDs² and to all equipment that is used to access the video programming provided by MVPDs.³ Second, the focus of the Commission's rules should be on the commercial availability of digital, not analog, equipment.⁴ Third, the Commission should convene an industry group to develop standards which would allow for maximum flexibility for innovation in MVPD services, and promote portability and interoperability of equipment. And, fourth, anti-subsidy rules should not apply to cable systems which are subject to effective competition. There is nothing about the Initial Comments filed by others which changes Ameritech's view on those four basic arguments.

However, one additional point should be emphasized.

² Many others agreed. *See e.g.*, GTE at 4; Motorola at 7-8; Uniden at 2; Zenith at 10; Circuit City at 14; CERC at 13; Time Warner at 22-24; Tandy at 3-4; US West at 9; NCTA at 15.

³ Those rules should be waived from equipment that already is commercially available by any reasonable measure, *e.g.* TVs, VCRs, analog cable converters.

⁴ Even some manufacturers and retailers think this is a good idea. *See e.g.*, CERC at 2; TIA at 9; Circuit City at 5.

I.

THE RULES IN THIS DOCKET SHOULD PROMOTE COMMERCIAL AVAILABILITY OF EQUIPMENT TO ACCESS VIDEO PROGRAMMING; THEY SHOULD NOT IMPEDE THE MVPDs' ABILITY TO DEVELOP INNOVATIVE SERVICES IN RESPONSE TO MARKET DEMAND.

If the Commission's only goal in this docket was to promote commercial availability of equipment to access video programming, it might be inclined simply to require that all such equipment -- including current proprietary equipment -- must be made available at retail.⁵ As a number of other parties note, that kind of requirement, however, would jeopardize program security, and that would be contrary to the plain language of Section 629(b).⁶ This is true because current equipment, and the associated MVPD networks, are not designed to accommodate separation of security functions from the equipment which would suddenly become commercially available under such an approach. In addition, that kind of requirement would do nothing to ensure portability or interoperability. Indeed, that kind of requirement actually would undermine commercial availability because consumers will be reluctant to purchase equipment that does not

⁵ This approach is favored by some. *See e.g.*, TIA at 12-13; Commercial Engineering at 4.

⁶ *See e.g.*, Direct TV at 3, 18; Time Warner at 10-12; US West at 2; Scientific Atlanta at 25.

have at least some degree of portability and interoperability.⁷ None of this would benefit consumers.

Rather than trying to mandate commercial availability in this manner, the Commission's actions here should recognize that the fundamental changes in the service paradigm, especially from the consumer's perspective, need to be addressed in concert. For example, as Motorola notes (at fn. 24), consumers will need to be made aware of their new responsibilities. In addition, as the end-to-end responsibility of the MVPD is broken, trouble shooting techniques and other operating practices will need to be revised.

To maximize the long-term benefit to consumers, the Commission should take steps to promote the general acceptance of industry standards⁸ which will lead naturally to commercial availability of equipment needed to access video programming. The Commission could do this by adopting a

⁷ See Viacom at 11; *but see* Direct TV at 7-8, 12 (inferring that lack of interoperability of DBS equipment is not a problem because the prices for this equipment have fallen).

⁸ Virtually all commentors recognize the statutory and policy reasons for the Commission to promote, rather than prescribe, standards. *See, e.g.*, AHCHTC at 3; CEMA at 9; ITIC/CTIA at 14-15; Echelon at 12; BA/NYNEX at 4; Motorola at 20-28; Pacific at 6; Zenith at 5; Circuit City at 26-28; US West at 12; TIA at 4-6; NCTA at 30-33; Americast 7-8; Scientific Atlanta at 21; General Instruments at 34-36. In addition, several commentors note the common ground formed by voluntary digital standardization efforts to date, which center around MPEG-2 and Dolby AC-3. *See, e.g.*, TIA at 10.

performance rule and setting a date certain for compliance.⁹ For example, the Commission could require the industry to adopt portability/interoperability standards for digital video access equipment¹⁰ within a specified period of time, and then require compatibility of digital networks with those standards within a specific period after such standards are adopted.¹¹ If the Commission adopted a performance rule of this type, and did so “in consultation with appropriate industry standard-setting organizations” as required in Section 629(a), it is likely that such standards would become generally accepted in the marketplace,¹² and provide the “critical mass” necessary to ensure a vibrant, competitive equipment

⁹ While some parties support the concept of a date-specific performance rule (*e.g.*, CERC at 8 and General Instrument at 50), there is disagreement on what should be specified as the objective compliance measure -- adherence to a specific, current standard or a general test for commercial availability. Ameritech submits that the adoption of standards for physical connections and communications protocols, and subsequent network compliance with those standards, is the preferable way to accomplish the goals of Section 629.

¹⁰ The Commission should focus on digital equipment for the reasons Ameritech cited in its Initial Comments at pages 8-10. *See also* Viacom at 18 (citing aggressive rollout schedule for DTV), Echelon at 47 (Commission should move aggressively into the digital era), and AHCHTC at 11 (analog standardization efforts, and subsequent consumer purchase of analog equipment, may undermine consumer incentives to invest in new digital equipment).

¹¹ The time periods selected should reflect the complexity of portability/interoperability issues, the costs of infrastructure design changes, and other relevant considerations.

¹² Once standards are generally accepted, it is unlikely that MVPDs would stray from them and, therefore, the Commission’s rules should “sunset” at the end of this implementation period.

market¹³, as well as ensure compliance by MVPDs on a going-forward basis.

In adopting such standards, however, the Commission should be careful not to impede the MVPD's ability to develop innovative services in response to market demand. The Commission can avoid that pitfall by requiring the adoption of standards for accessing video programming, but not for other non-access-related functions which might be used by a vendor to provide innovative services and thereby differentiate its equipment in the marketplace. Thus, digital access equipment -- *e.g.*, a set-top box -- should be available from MVPDs and other sources. The physical connections and the communication protocols at the network interface should be standardized. In those applications where a device with digital access functionality is integrated with other equipment, *e.g.* built into a television set, a standard network interface port should be required.¹⁴ On the other hand, network-dependent functions, *e.g.* channel mapping, demodulation,

¹³ Availability of equipment from unaffiliated sources should be governed by market forces, not regulation. See *Circuit City*, at 26. Further, as TIA notes (at 13), an MVPD should not be penalized if, due to market forces, no manufacturer or retailer offers equipment that matches the MVPD's equipment, as long as the MVPD's network and equipment comply with the generally accepted standards.

¹⁴ See *e.g.*, BA/NYNEX at 3. This requirement would help ensure that no MVPD service would be inhibited or rendered inaccessible by virtue of an individual manufacturer's design.

and security, should not be standardized under the Commission's rules.¹⁵

Differentiation between these access and non-access functions will help ensure that equipment to access video programming is commercially available from sources unaffiliated with the MVPD but, at the same time, will not impede the MVPD's ability to develop innovative services in response to market demand.

¹⁵ Furthermore, "Look and feel" characteristics of different digital access equipment should be proprietary, as these characteristics form part of the basis for product differentiation among vendors, including MVPDs. *See Americast* at 4; *Pacific* at 3. However, the communications protocol that delivers the information content should be standardized.

II.

CONCLUSION

The Commission's goal in this proceeding is to adopt rules which will ensure that equipment used to access multichannel video programming and other services offered over MVPD systems is commercially available from sources other than the MVPD. That is a worthwhile goal and one best achieved in the manner recommended in Ameritech's Initial Comments and in this Reply.

Respectfully submitted,

AMERITECH NEW MEDIA, INC.

By: Deborah H. Morris
by Kate

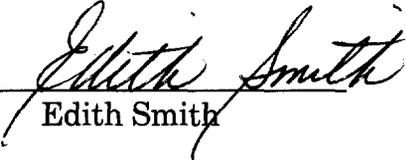
Deborah H. Morris
George D. Callard
Its Attorneys
300 S. Riverside Plaza
Suite 1800 North
Chicago, Illinois 60606
312-526-8062

Dated: June 16, 1997

CERTIFICATE OF SERVICE

I, Edith Smith, do hereby certify that a copy of Reply Comments of Ameritech New Media, Inc. has been served on the parties on the attached service list, via first class mail, postage prepaid, on this 16th day of June, 1997.

By:


Edith Smith

JONATHAN D BLAKE
KURT A WIMMER
ERIN M EGAN
AMERICAST
COVINGTON & BURLING
1201 PENNSYLVANIA AVE NW
WASHINGTON DC 20004-7566

CRAIG A NEWMAN
SENIOR VICE PRESIDENT
BRUCE D GELLMAN
ASSOCIATE GENERAL COUNSEL
CORPORATE MEDIA PARTNERS
SUITE 1750
10880 WILSHIRE BOULEVARD
LOS ANGELES CA 90024

ALLEN P BIERMAN
SALES AND MARKETING MANAGER
BROADBAND PRODUCTS
BELDEN WIRE & CABLE COMPANY
P O BOX 1980
RICHMOND IN 47375-1980

LESLIE A VIAL
BELL ATLANTIC & NYNEX
EIGHTH FLOOR
1320 NORTH COURTHOUSE ROAD
ARLINGTON VIRGINIA 22201

RICHARD G WARREN
NYNEX TELEPHONE COMPANIES
ROOM 3831
1095 AVENUE OF THE AMERICAS
NEW YORK NEW YORK 10036

BECCA GOULD
J D MARPLE
BUSINESS SOFTWARE ALLIANCE
SUITE 700
1150 18TH STREET NW
WASHINGTON DC 20036

MICHAEL R GARDNER
WILLIAM J GILDEA III
HARVEY KELLMAN
CELLULARVISION USA INC
SUITE 710
1150 CONNECTICUT AVE NW
WASHINGTON DC 20036

JOHN V ROACH
RONALD L PARRISH
TANDY CORPORATION
1800 ONE TANDY CENTER
FORT WORTH TX 76102

RICHARD L SHARP
W STEPHEN CANNON
CIRCUIT CITY STORES INC
9950 MAYLAND DRIVE
RICHMOND VA 23233

JOHN J MOTLEY III
SENIOR VICE PRESIDENT
NATIONAL RETAIL FEDERATION
SUITE 1000
325 7TH STREET NW
WASHINGTON DC 20004

MORRISON G CAIN
SENIOR VICE PRESIDENT
INTERNATIONAL MASS RETAIL
ASSOCIATION
SUITE 2250
1700 NORTH MOORE STREET
ARLINGTON VA 22209

ROBERT S SCHWARTZ
JONI LUPOVITZ
MCDERMOTT WILL & EMERY
SUITE 450
1850 K STREET NW
WASHINGTON DC 20006

JOHN M BOEHM #15550
COMMERICAL ENGINEERING
811 SOUTH 13TH STREET
LINCOLN NE 68508

GEORGE A HANOVER
GARY S KLEIN
CONSUMER ELECTRONICS
MANUFACTURERS ASSOCIATION
2500 WILSON BOULEVARD
ARLINGTON VIRGINIA 22201

DAVID ALAN NALL
SQUIRE SANDERS & DEMPSEY
P O BOX 407
1201 PENNSYLVANIA AVE NW
WASHINGTON DC 20044

JAMES F ROGERS
JAMES H BARKER
NANDAN M JOSHI
DIRECTV INC & HUGHES NETWORK
SYSTEMS INC
SUITE 1300
1001 PENNSYLVANIA AVE NW
WASHINGTON DC 20004-2505

JOHN F RAPOSA HQE03J27
GTE SERVICE CORPORATION
P O BOX 152092
IRVING TX 75015-2092

ANDRE J LACHANCE
GTE SERVICE CORPORATION
SUITE 1200
1850 M STREET NW
WASHINGTON DC 20036

GLENN B MANISHIN
ELISE P W KIELY
FRANK V PAGANELLI
ECHELON CORPORATION
SUITE 700
1615 M STREET NW
WASHINGTON DC 20036

JOHN D HEUBUSCH
VICE PRESIDENT GOVERNMENT AFFAIRS
707 D STREET NW
WASHINGTON DC 20004

PHILIP L VERVEER
FRANCIS M BUONO
WILLKIE FAAR & GALLAGHER
SUITE 600
1155 21ST STREET NW
WASHINGTON DC 20036-3384

QUINCY RODGERS
CHRISTINE G CRAFTON
FAYE MORRISON
GENERAL INSTRUMENT CORPORATION
SUITE 405
1133 21ST STREET NW
WASHINGTON DC 20036-3384

JEFFREY KRAUSS
CONSULTANT
SUITE 106
17 WEST JEFFERSON STREET
ROCKVILLE MD 20850

COLLEEN BOOTHBY
KEVIN DILALLO
LEVINE BLASZAK BLOCK & BOOTHBY
SUITE 500
1300 CONNECTICUT AVE NW
WASHINGTON DC 20036-1703

FIONA J BRANTON
DIRECTOR
INFORMATION TECHNOLOGY COUNCIL
SUITE 200
1250 EYE STREET NW
WASHINGTON DC 20005

BRUCE N HAHN
DIRECTOR OF PUBLIC POLICY
COMPUTING TECHNOLOGY INDUSTRY
ASSOCIATION
6776 LITTLE FALLS ROAD
ARLINGTON VA 22213

STUART E OVERBY
ASSISTANT DIRECTOR
SPECTRUM PLANNING
MOTOROLA INC
SUITE 400
1350 I STREET NW
WASHINGTON DC 20005

DANIEL L BRENNER
NEAL M GOLDBERG
LORETTA P POLK
WENDELL H BAILEY
NATIONAL CABLE TELEVISION
ASSOCIATION INC
1724 MASSACHUSETTS AVE NW
WASHINGTON DC 20036

MARLIN D ARD
SARAH R THOMAS
PACIFIC BELL VIDEO SERVICES
ROOM 1522A
140 NEW MONTGOMERY STREET
SAN FRANCISCO CA 94105

MARGARET E GARBER
PACIFIC BELL VIDEO SERVICES
1275 PENNSYLVANIA AVE NW
WASHINGTON DC 20004

BENJAMIN J GRIFFIN
ROBERT L GALBREATH
REED SMITH SHAW & MCCLAY
PRIMESTAR PARTNERS L P
SUITE 1100 - EAST TOWER
1301 K STREET NW
WASHINGTON DC 20005

BILL LOUGHREY
DIRECTOR OF GOVERNMENT AFFAIRS
CORPORATE COMMUNICATIONS
DEPARTMENT
SCIENTIFIC-ATLANTA INC
ONE TECHNOLOGY PARKWAY SOUTH
NORCROSS GA 30092-2967

GRANT E SEIFFERT
DIRECTOR OF GOVERNMENT RELATIONS
TELECOMMUNICATIONS INDUSTRY
ASSOCIATION
SUITE 315
1201 PENNSYLVANIA AVE NW
WASHINGTON DC 20004-2401

HOWARD S SHAPIRO
CRAIG A GILLEY
TIME WARNER ENTERTAINMENT
COMPANY LP
FLEISCHMAN & WALSH LLP
SUITE 600
1400 SIXTEENTH STREET NW
WASHINGTON DC 20036

EDWARD SCHOR
ANNE LUCEY
VIACOM INC
1515 BROADWAY
NEW YORK NY 10036

ANDREW R PAUL
SENIOR VICE PRESIDENT
SATELLITE BROADCASTING AND
COMMUNICATIONS ASSOCIATION
SUITE 600
225 REINEKERS LANE
ALEXANDRIA VA 22314

JOHN W PETTIT
RICHARD J ARSENAULT
DRINKER BIDDLE & REATH LLP
TANDY CORPORATION
901 FIFTEENTH STREET NW
WASHINGTON DC 20005

AARON I FLEISCHMAN
ARTHUR H HARDING
TIME WARNER ENTERTAINMENT
COMPANY LP
FLEISCHMAN & WALSH LLP
SUITE 600
1400 SIXTEENTH STREET NW
WASHINGTON DC 20036

ROBERT SACHS
MARGARET A SOFIO
JOHN S FOUHY
U S WEST INC
THE PILOT HOUSE
LEWIS WHARF
BOSTON MA 02110

BRENDA L FOX
GREGORY L CANNON
U S WEST INC
SUITE 700
1020 19TH STREET NW
WASHINGTON DC 20036

GREGG P SKALL
UNIDEN AMERICA CORPORATION
PEPPER & CORAZZINI LLP
SUITE 200
1776 K STREET NW
WASHINGTON DC 20006

GLENN B MANISHIN
BLUMENFELD & COHEN
AD HOC COMPUTER AND HIGH-
TECHNOLOGY COALITION
SUITE 700
1615 M STREET NW
WASHINGTON DC 20036

MARVIN ROSENBERG
DAVID VAUGHN
UNITED STATES SATELLITE
BROADCASTING COMPANY INC
HOLLAND & KNIGHT LLP
SUITE 400
2100 PENNSYLVANIA AVE NW
WASHINGTON DC 20037-3202

JOHN I TAYLOR
VICE PRESIDENT PUBLIC AFFAIRS
NICK MEHTA
CHIEF TECHNICAL OFFICER
ZENITH ELECTRONICS CORPORATION
1000 N MILWAUKEE AVENUE
GLENVIEW IL 60025